

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 2690

IN THE MATTER OF:

Served April 1, 1985

Application of WEBB TOURS, INC.,)
for a Certificate of Public)
Convenience and Necessity to)
Conduct General Charter and Special)
Operations Between Points in the)
Metropolitan District)

Case No. AP-84-44

BACKGROUND

By application filed December 10, 1984, Webb Tours, Inc., ("Webb" or "applicant"), seeks an unrestricted certificate of public convenience and necessity to transport passengers and their baggage, over irregular routes, in special and charter operations, between points in the Metropolitan District. 1/

By Order No. 2638, served December 11, 1985, a public hearing was scheduled to commence January 23, 1985. On January 17, 1985, applicant filed a motion requesting that the hearing be postponed and seeking leave to proceed under Commission Rule No. 22 on the basis of additional filings. Subsequently, applicant withdrew the motion and a hearing was scheduled and held on March 1, 1985. No party appeared in opposition. 2/ The applicant presented seven public witnesses and one operating witness. Their testimony is summarized below.

SUMMARY OF EVIDENCE

Ms. Kathleen R. Dietrich testified in support of the application in her capacity as general manager of USA Hosts. USA

1/ To the extent the application could be construed as seeking authority to transport passengers solely between points in Virginia, it was dismissed pursuant to the Compact, Title II, Article XII, Section 1(b), by Order No. 2638, served December 11, 1984, and incorporated herein by reference.

2/ On February 27, 1985, American Coach Lines, Inc., (ACL) filed a Petition to Intervene. ACL withdrew the Petition on March 1, 1985.

Hosts is in the business of making arrangements for conventions. This includes arrangements for ground transportation of persons attending conventions in Washington, D.C. The transportation involves the movement of convention participants to and from metropolitan area airports, train stations, and local hotels. It also involves sightseeing tours and point-to-point transfers as needed.

Ms. Dietrich testified that her company has used Webb's service on past occasions and has found it to be very reliable and responsive. USA Hosts has had difficulty in securing equally reliable and satisfactory service from other carriers when it requires a conventional size motorcoach or smaller equipment. If this application is granted, USA Hosts would use Webb's service for movements in vans and conventional size buses, as well as the double-decker buses now authorized by Webb's certificate.

Ms. Irma Greenspoon offered her support for Webb's proposal on behalf of Guide Service of Washington ("GSW"). GSW conducts foreign language tours of Washington, D.C., for groups that may range in size from 2 to 49 persons. GSW on occasion needs to arrange local transportation for its clients, and this may involve a need for a limousine or van, a regular-size bus, or a double-decker bus. GSW has used Webb's existing service and found it to be very satisfactory. If this application is granted, GSW would also use Webb's service for movements in conventional motor coaches, especially during April and May when it is difficult to obtain sufficient conventional equipment from existing carriers.

Mr. Norman M. Gurevich testified in support of the application in his capacity as president of Cherry Hill Camp City, Inc. This company operates a recreational vehicle camp ground in College Park, Md. Cherry Hill Camp City is also an agent for Gray Line Sightseeing Tours. It derives over 90 percent of its revenues from dealings with tourists. Mr. Gurevich testified that there is an increasing need for transportation of small groups, such as individual families, between Cherry Hill Camp City and other points in the Metropolitan District. An example would be a family of campers going from the camp site to a subway station, or going on a private sightseeing tour of local points of interest. The present services available at the campsite do not offer vans and other types of small equipment that could effectively meet the needs of such small groups. If this application is granted, Cherry Hill Camp City would actively pursue Webb's service.

Next to testify in support of the application was Erna Silberstein, president of Taylor Tours. Taylor Tours arranges social activities for convention groups, including, as pertinent here, sightseeing tours for spouses of conventioners. It arranges local charter transportation for groups from 15 or 20 up to several thousand people. It uses limousines, vans, and buses for shuttle operations and sightseeing tours. Taylor Tours has used Webb's service in the past

and found it to be very satisfactory. It has had difficulty obtaining equally satisfactory transportation service in vans for smaller groups. Taylor Tours would use Webb's expanded service if this application is granted.

Potomac Party Cruises ("PPC") operates a pleasure cruise boat line. Captain Alvin F. Futrell, its executive vice-president and general manager, testified that PPC uses Webb's double-decker buses to transport groups from various locations in the Metropolitan District to the pier at Alexandria, Va. Captain Futrell complimented Webb's service and opined that Webb would be able to serve PPC's needs even more efficiently if this application is granted. The ability to use smaller equipment would be an operating advantage in Alexandria, due to traffic congestion and limited parking space.

Mr. Mark Julian supported the application on the basis of his affiliation with two different entities, Julian Travel Associates and Julian, Inc. Julian Travel Associates packages group tours in and out of Washington, D.C., which involves charter transportation. Julian, Inc., sells individual tickets for sightseeing tours, which involves special operations transportation. Mr. Julian has used Webb's service and said that it is very good. The witness testified that he often needs 47-passenger coaches in his business and has frequently had difficulty in getting such equipment. Mr. Julian testified that he has an increasing need for vans to accomodate smaller groups for which it would not be economically feasible to use 47-passenger coaches. Mr. Julian supports this application to expand the available pool of conventional size motor coaches and vans.

William Babb testified in support of the application in his capacity as president of Washington Group Tours ("WGT"). Mr. Babb's company handles transportation arrangements for package tours, conventions, and other groups of visitors to the nation's capital. During the spring season, WGT handles an average of two to three small groups a week, many of which by necessity travel on 47-passenger coaches rather than vans, due to a shortage of vans. It would be more efficient and economical to transport such groups in vans.

WGT also needs large numbers of 47-passenger coaches in the ordinary course of its business. Like many of the other witnesses, WGT experiences shortages of such equipment during peak seasons and supports Webb to alleviate the problem. In this regard, WGT has had situations where it has arranged for a double-decker bus from Webb, only to have the size of its group unpredictably fall below 50 persons. The difference in prices causes WGT to seek out a conventional size piece of equipment at the last minute. At present this entails hiring another carrier, often on short notice. If Webb's application in this case is granted, WGT could avoid such inconveniences.

Mr. Ralph Webb, president and general manager of Webb Tours, testified as the applicant's operating witness. Applicant operates a

fleet of 14 vehicles, including 10 double-decker buses, three 47-passenger coaches, and one van. All of the vehicles are owned or being purchased. If this application is granted, Webb will continue to operate double-decker buses, but may acquire more of the smaller types of equipment depending on market demands and its financial condition.

Since its inception in 1975, Webb's operations have grown steadily. The business is operating at a profit. Based on past experience, Mr. Webb testified that removal of the equipment restrictions in applicant's certificate of public convenience and necessity, as here sought, would enable Webb to handle a significant amount of traffic that is presently being turned down or lost because of the restriction to double-decker buses. It would also allow Webb to operate more efficiently. Mr. Webb testified that the applicant's 47-passenger buses and van often sit idle, even when there is traffic available, because of the equipment restrictions in its certificate.

Mr. Webb further testified that the applicant's operational capabilities are steadily improving. Maintenance and safety programs have been expanded, necessitating the hiring of additional personnel to implement them. Also, the applicant has embarked on a plan to computerize its record-keeping and other information functions within two years.

DISCUSSION AND CONCLUSIONS

Title II, Article XII, Section 4(b) of the Compact provides as follows:

When an application is made under this section for a certificate, . . . the Commission shall issue a certificate to any qualified applicant therefor, authorizing the whole or any part of the transportation covered by the application, if it finds, after hearing held upon reasonable notice, that the applicant is fit, willing and able to perform such transportation properly and to conform to the provisions of this Act and the rules, regulations, and requirements of the Commission thereunder, and that such transportation is or will be required by the public convenience and necessity; otherwise such application shall be denied.

In the context of this case, the questions presented are whether the public convenience and necessity require the lifting of the restrictions heretofore imposed on Webb's operation and, if so, whether Webb is fit to conduct unrestricted operations. We find the evidence presented to be sufficient to justify an affirmative answer to both questions and, accordingly, we shall grant Webb's application for the reasons expressed below.

In determining whether proposed transportation under the Compact is required by the public convenience and necessity, we are guided by a three-part analysis enunciated in Pan-American Bus Lines Operation, 1 M.C.C. 190, at 203 (1936). The analysis focuses on the following factors:

1. Will the proposed new transportation service serve a useful public purpose, responsive to a genuine public demand or need?
2. Can and will this purpose be served as well by existing carriers?
3. Can this purpose be served by the proposed new service without endangering or impairing the operations of existing carriers contrary to the public interest?

Considering the evidence presented in light of the first and second Pan-American factors, it appears that the supporting witnesses believe Webb's service is superior to many other existing services in terms of competency, courtesy, and professionalism. They have stated a demand for Webb's service in buses and vans so that they can secure the advantages of Webb's service when use of a double-decker bus would be inappropriate. Moreover, the witnesses have shown a need for more equipment in general to ameliorate equipment shortages that occur during peak seasons.

This brings us to a consideration of the third Pan-American factor. We note that no protestants opposed Webb's application. The lack of opposition may well indicate that existing carriers do not consider themselves endangered by the prospect of Webb's unrestricted service. In any event, the evidence submitted reveals no basis on which to conclude that the operations of existing carriers would be materially and adversely affected.

Because there is reliable, probative, and substantial evidence of a public need for Webb's service free from equipment restrictions, because there is similar evidence that some existing carriers' services are not as satisfactory as Webb's in many material respects, and because there is no evidence that a grant of this application will impair the service of existing carriers to the detriment of the public, we conclude that Webb's proposed lifting of equipment restrictions is required by the public convenience and necessity.

Turning to the question of Webb's fitness, we note the inquiry involves three aspects: operational, financial, and compliance fitness. Webb's operational and financial fitness is established by its showing that it already possesses and operates, pursuant to its ICC authority, equipment other than double-decker buses, that it operates at a profit, that it has grown significantly since its inception in 1975, and that its safety and maintenance programs recently have been enhanced. As for Webb's compliance fitness, we made a favorable

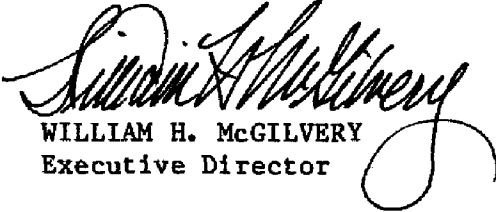
finding on this issue in Order No. 2658, served less than a year ago on June 26, 1984, and nothing on the record in this case suggests the propriety of a contrary finding at this time. Accordingly, we find Webb to be fit, willing, and able to provide its proposed unrestricted service and to abide by the Compact and the requirements of our rules and regulations thereunder.

THEREFORE, IT IS ORDERED:

1. That the application of Webb Tours, Inc., is hereby granted.

2. That an appropriately revised Certificate of Public Convenience and Necessity No. 33 be issued forthwith.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:


WILLIAM H. MCGILVERY
Executive Director